

## VESTING TENTATIVE MAP

<b>FILE NO.</b>	<b>T20-007</b>
<b>LOCATION OF PROPERTY</b>	<b>760 &amp; 792 Meridian Way (Southeast Corner of Meridian Way and Pedro Street)</b>
<b>ZONING DISTRICT</b>	<b>CP Commercial Pedestrian</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Mixed Use Neighborhood</b>
<b>PROPOSED USE</b>	<b>Vesting Tentative Map to allow a lot line adjustment between two existing parcels, APNs 264-07-040 (760 Meridian Way) &amp; 048 (792 Meridian Way), and allow 12 residential condominium units on the adjusted APN 264-07-048 (Parcel One)</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Exempt per CEQA Guidelines Section 15332 for Infill Development Projects</b>
<b>APPLICANT ADDRESS</b>	<b>Dave Voorhies Nterra Group 1295 E Dunne Ave, Suite 230 Morgan Hill, CA 95037</b>
<b>OWNER ADDRESS</b>	<b>Allen Guggenheim Meridian Way Partners 760 Meridian Way San José, CA 95126</b>

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as following for this proposed project:

1. **Project Description.** The Vesting Tentative Map Permit is to allow a lot line adjustment between two existing parcels, APNs 264-07-040 (Parcel 1, 760 Meridian Way) & 048 (Parcel 2, 792 Meridian Way), and allow 12 residential condominium units on the adjusted APN 264-07-048 (Parcel 1).
2. **Site Description.** This 0.79-gross acre site consists of one 0.21-acre parcel, APN 264-07-048 (Parcel 1), in the northern portion of the site; and one 0.58-acre parcel, APN 264-07-040 (Parcel 2), in the southern portion of the site. The site is bounded by the on-ramp to Interstate 280 (I-280) to the west across Meridian Way, and multi-family residential use to the north and the east, and to the south across Pedro Street.
3. **General Plan Conformance.** The Envision San José 2040 General Plan's Land Use/Transportation Diagram designation for the subject site is Mixed Use Neighborhood. This designation supports mixed-use development and allows a floor area ratio (FAR) of

between 0.25 and 2.0. The project is consistent with this General Plan land use designation in that it is a commercial/residential mixed-use development with a 0.77 FAR.

4. **Zoning Ordinance Compliance.** The project site is located within the CP Commercial Pedestrian Zoning District.
  - a. **Minimum lot size:** The minimum lot size for CP Zoning District is 6,000 square feet per Zoning Code Section 20.40.200, Table 20-100. The adjusted lot areas for Parcels 1 & 2 will be 9,488 square feet and 24,943 square feet, which exceed the minimum lot area requirements.
  - b. **Setback:** The adjusted lot lines to Parcel 1 are side lot lines. There is no setback requirement to this side because the adjacent parcel (Parcel 2) is zoned CP. The adjusted lot lines to Parcel 2 are rear lot lines. There is also no rear setback requirement because the adjacent parcel (Parcel 1) is zoned CP pursuant to Zoning Code Section 20.40.290. Therefore, the adjusted lot lines and the airspace subdivision would not result in nonconformance with the required building setbacks.
5. **Environmental Review.** This Tentative Map application is associated with the development permit, File No. CP18-041, which was approved in November 2019. The provisions of Section 15332 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the development is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. CEQA Guidelines Section 15332 infill development projects class 32 consists of projects characterized as in-fill development meeting the conditions described as follows: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (b) The project occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; (c) The project site has no value as habitat for endangered, rare, or threatened species; (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (e) The site can be adequately served by all required utilities and public service.

*Analysis: As stated above, the project is consistent with the General Plan land use designation and policies and is in conformance with the zoning requirements. The project is within an urbanized area, on a site that is less than five acres, and in an area with adequate sewer, water, and electricity service. The project site is not within close proximity to any rivers or waterways. The project will not result in significant transportation impacts because the project meets the small infill project screening criteria per Council Policy 5-1, a Transportation Analysis Policy.*

## FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. **Subdivision Map Act Findings.** In accordance with Section 66474 of the Government Code of the State of California, the Director of Planning of the City of San José, in consideration of the proposed subdivision shown on the Vesting Tentative Map with the imposed conditions, shall deny approval of a tentative map, if it makes any of the following findings:

- a. That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
- b. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- c. That the site is not physically suitable for the type of development.
- d. That the site is not physically suitable for the proposed density of development.
- e. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- f. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- g. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

*Based on review of the Vesting Tentative Map and as discussed in detail above, any such findings cannot be made to deny the subject subdivision in that: 1) the Vesting Tentative Map/project is consistent with the General Plan as noted above; 2) the project design is consistent with the General Plan; 3) the project site is physically suitable for the development; 4) the project density is suitable for the site based on the FAR allowances of the Mixed Use Neighborhood General Plan designation; 5) the subdivision into airspace condominium units and lot line adjustment in this urban setting would not cause any environmental damage or substantially injure fish or other wildlife habitat; 6) the subdivision into airspace condominium units and lot line adjustment would not cause any public health issues; 7) the subdivision into airspace condominium units and lot line adjustment would not conflict with any public easements, as the project is providing all necessary public easements. The project is required to improve the public sidewalks on development frontages.*

2. **Subdivision Ordinance Findings.** In accordance with San José Municipal Code (SJMC) Section 19.12.130, the Director may approve the Tentative Map if the Director cannot make any of the findings for denial in Government Code section 66474 and the Director has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the Director may approve the project if the Director does not make any of the findings for denial in San Jose Municipal Code Section 19.12.220.

Section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code specified in Findings Section 1 herein.

*Analysis: As described above, based on review of the project subdivision and lot line adjustment, the Council of the City of San José does not make any such findings to deny the subject subdivision and lot line adjustment. The vesting tentative map and the development's design are consistent with the San José Envision 2040 General Plan. The site is not located within a designated Federal Emergency Management Agency (FEMA) 100-year flood plan. The project site, as well as the surrounding area do not provide a natural habitat for either fish or wildlife. The project subdivision, lot line adjustment and subsequent improvements*

*will not cause serious public health problems. The project would be required to improve the sidewalks at the project frontage and install new driveways at Pedro Street and Meridian Way.*

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
  - a. Acceptance of the Permit by the Permittee; and
  - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Expiration of Map.** This Vesting Tentative Map shall automatically expire 30 months from and after date of issuance thereof by the Director of Planning, if within such time period, a Final Map has not been obtained, pursuant to and in accordance with the provisions of this Tentative Map. The date of issuance is the date this Vesting Tentative Map is approved by the Director of Planning. However, the Director of Planning may approve a Vesting Tentative Map Extension to extend the validity of this Vesting Tentative Map in accordance with Title 19. An extension of the approval of the tentative map not to exceed two years may be granted by the city council or the director.
3. **Conformance to Plans.** Development of the site shall conform to the approved Vesting Tentative Map File No. T20-007 plans entitled “Vesting Tentative Subdivision Map-760 & 792 Meridian Way,” dated revised April 29, 2020, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04), with the exception of any subsequently approved changes.
4. **Conformance with Other Permits.** The subject Vesting Tentative Map shall conform to and comply in all respects with the Conditional Use Permit File No. CP18-041 on which such Vesting Tentative Map is based. Approval of said Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Conditional Use Permit for such lands automatically expires or for any reason ceases to be operative.
5. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
6. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
7. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.

8. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
9. **Improvement Contract.** In the event the subdivider has not completed the improvements required for the proposed subdivision at the time the final map is presented for approval, Subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and shall provide the bonds and insurance mentioned therein.
10. **Homeowner's Association and/or Maintenance District.** A Homeowner's Association or Maintenance District shall be established for maintenance of all common areas, including but not limited to, private streets, pedestrian walkways, easements, landscaping, and landscaping in the public right-of-way that is not already in a maintenance district. The Permittee shall provide to the Homeowners Association a copy of the Vesting Tentative Map Permit, the accompanying Plan Set, any approved Amendments or Adjustments to the Development Permit, and a complete set of approved building and all improvement plans within 30 days of completion of each construction phase.
11. **Covenants, Conditions, and Restrictions (CC&Rs).** The Covenants, Conditions, and Restrictions document shall be reviewed and approved by the Director of Planning, Building and Code Enforcement prior to the approval of the Final Map.
12. **Affordable Housing.** The development may be subject to the Affordable Housing Impact Fee (AHIF) or subject to the Inclusionary Housing Ordinance (IHO).

If the development is a rental project, the permittee must pay the Affordable Housing Impact Fee prior to the issuance of any building permits, unless an exemption claim has been made and conditionally accepted. Rental developments are developments that do not include the filing of a tentative map, parcel map or other plan intended to allow the separate conveyance of individual residential units or interests.

- a. Permittee shall strictly comply with the approved Affordable Housing Compliance Plan for this development and any other applicable requirements of the AHIF.
- b. If a development qualifies for a conditional exemption to the AHIF in the approved Plan, the permittee and owner must execute and record an Affordable Housing Agreement with the City prior to the issuance of any building permits.
- c. Permittee's approval is for development of less than 20 qualifying dwelling units, as determined by Housing. Any changes in the number of units or the type of units in the development may result in additional requirements up to and including a requirement to comply with the IHO.
- d. No building permit may be issued until the AHIF is paid. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the AHIF Resolution are met.

If the development is a for-sale project, the permittee must comply with the requirements under IHO.



- a. Permittee shall strictly comply with the approved Affordable Housing Compliance Plan for this development and any other applicable requirements of the IHO.
  - b. b. If a development requests an IHO exemption in the Plan, the conditions of that exemption shall be complied with through the issuance of the certificate of occupancy.
  - c. c. Permittee's approval is for development of less than 20 qualifying dwelling units, as determined by Housing. Any changes in the number of units or the type of units in the development may result in additional requirements up to and including a requirement to comply with the IHO.
  - d. d. No building permit may be issued until evidence of compliance with the IHO and exemption process. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO are met.
13. **Parkland Dedication Ordinance.** This development is subject to the requirements of either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code,) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within the parkland dedication ordinance and the Associated Fees and Credit Resolutions.
14. **Public Use Easements.** Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Vesting Tentative Map for the subdivision to be devoted to such purposes.
15. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
16. **Distribution Facilities.** Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
17. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Permittee will be required to have satisfied all of the following Public Works conditions. The Permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>.
- a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
  - b. **Grading/Geology:**
    - i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the

- storm drain system from the site. An erosion control plan may be required with the grading application.
- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.
  - iii. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.
- c. **Flood Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- d. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- e. **Parks:** This residential project is subject to the payment of park fees in-lieu of land dedication under either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code).
- f. **Undergrounding:**
- i. The In-Lieu Undergrounding Fee shall be paid to the City for all frontage(s) adjacent to Pedro St. and Meridian Way prior to issuance of a Public Works Clearance. 100% percent of the base fee in place at the time of payment will be due. Currently, the 2018 base fee is \$485 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.
  - ii. The Director of Public Works may, at his discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Pedro St. and Meridian Way. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
- g. **Street Improvements:**
- i. Reconstruct existing driveways on Pedro St. to provide 26' width per CSJ standards.
  - ii. Construct a 26' wide driveway on Meridian Way per CSJ standards.
  - iii. Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.

- iv. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted or non-ADA compliant sidewalk along project frontage.
  - v. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
  - vi. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
  - h. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
  - i. **Street Trees:**
    - i. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current “Guidelines for Planning, Design, and Construction of City Streetscape Projects”. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
    - ii. Obtain a DOT street tree planting permit for any proposed street tree plantings.
    - iii. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.
18. **Revocation, Suspension, Modification.** This Vesting Tentative Map is subject to revocation, suspension or modification for violation of any of its provisions or condition.

**APPROVED** and issued on this 3<sup>rd</sup> day of June, 2020.

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

Deputy